

Rakhee V. Patel – State Bar No. 00797213
Phillip Lamberson – State Bar No. 00794134
Joe Wielebinski – State Bar No. 21432400
Annmarie Chiarello – State Bar No. 24097496
WINSTEAD PC
500 Winstead Building
2728 N. Harwood Street
Dallas, Texas 75201
Telephone: (214) 745-5400
Facsimile: (214) 745-5390
rpatel@winstead.com
plamberson@winstead.com
jwielebinski@winstead.com
achiarello@winstead.com

Jeff P. Prostok – State Bar No. 16352500
J. Robert Forshey – State Bar No. 07264200
Suzanne K. Rosen – State Bar No. 00798518
Matthias Kleinsasser – State Bar No. 24071357
FORSHEY & PROSTOK LLP
777 Main St., Suite 1290
Fort Worth, TX 76102
Telephone: (817) 877-8855
Facsimile: (817) 877-4151
jprostok@forsheyprostok.com
bforshey@forsheyprostok.com
srosen@forsheyprostok.com
mkleinsasser@forsheyprostok.com

COUNSEL FOR THE CHAPTER 11 TRUSTEE

**SPECIAL COUNSEL FOR ROBIN PHELAN,
CHAPTER 11 TRUSTEE**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:

**ACIS CAPITAL MANAGEMENT, L.P.,
ACIS CAPITAL MANAGEMENT GP,
LLC,**

Debtors.



Case No. 18-30264-SGJ-11
Case No. 18-30265-SGJ-11

**(Jointly Administered Under Case
No. 18-30264-SGJ-11)**

Chapter 11

**HIGHLAND CAPITAL MANAGEMENT,
L.P. and HIGHLAND CLO FUNDING
LTD,**

Plaintiffs and Counter Defendants,

VS.

ROBIN PHELAN, Chapter 11 Trustee,

**Defendant, Counter Plaintiff, and
Third-Party Plaintiff,**

VS.

**HIGHLAND HCF ADVISOR, LTD.,
HIGHLAND CLO MANAGEMENT, LTD.,
and HIGHLAND CLO HOLDINGS, LTD.,**

Third-Party Defendants.

Adversary No. 18-03078-SGJ

TRUSTEE'S AMENDED MOTION FOR PARTIAL SUMMARY JUDGMENT¹

Robin Phelan (the "Trustee" or "Defendant"), the chapter 11 trustee of Acis Capital Management, L.P. ("Acis LP") and Acis Capital Management GP, LLC ("Acis GP" together with Acis LP, the "Debtors" or "Acis") in the above-styled and jointly administered bankruptcy cases (the "Bankruptcy Cases"), and Defendant in the above-styled adversary proceeding (the "Adversary Proceeding"), files this *Amended Motion for Partial Summary Judgment* (the "Amended Motion for Partial Summary Judgment") pursuant to Federal Rule of Civil Procedure 56, made applicable herein through Federal Rule of Bankruptcy Procedure 7056.

For the reasons set forth in the *Brief in Support of the Trustee's Amended Motion for Partial Summary Judgment* ("Brief"), fully incorporated herein, the Trustee respectfully requests that the Court: (i) confirm that, under the doctrine of collateral estoppel, the findings and conclusions of the Arbitration Award are binding upon Highland Capital; (ii) grant summary judgment in the Trustee's favor with respect to Counts 1, 2, 3, and 4 of the Amended Answer; (iii) disallow the Highland Claims under section 502(b)(1) and (d) of the Bankruptcy Code; and (iv) grant any other such relief that the Trustee may show himself to be justly entitled in law or in equity.

DATED: November 30, 2018.

¹ Any capitalized term not otherwise defined herein shall have the meaning ascribed to it in the *Brief in Support of the Trustee's Amended Motion for Partial Summary Judgment*, filed contemporaneously herewith.

Respectfully submitted,

By: /s/ Phillip Lamberson

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-and-

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 30, 2018, a true and correct copy of the foregoing Amended Motion for Partial Summary Judgment and accompanying Brief in support and Appendix filed concurrently herewith will be electronically mailed to the parties that are registered or otherwise entitled to receive electronic notices in this case pursuant to the Electronic Filing Procedures in this District and to the parties on the attached Service List via first class U.S. mail.

/s/ Jason A. Enright

One of Counsel